REMARKS

Claims 1–20 are pending in the application.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 102 (Anticipation)

Claims 1–20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6, 600,914 to *Uhlik et al.* This rejection is respectfully traversed.

A claim is anticipated only if each and every element is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. MPEP § 2131 at p. 2100-73 (8ᵗʰ ed. rev. 2 May 2004).

Independent claim 1 recites that emulation of normal call set-up operations at the selected subscriber station occurs in response to detection that communication resources are unavailable to establish the call. Such a feature is not found in the cited reference. *Uhlik et al* teaches that the emergency call recognition system is initiated as soon as an off-hook state is determined, not after querying availability of communication resources to make the call and determination that such communication resources are unavailable.

The Office Action states:

> Although Uhlik suggests that the emergency call recognition system is initiated as soon as an off-hook state is determined, there is also considered with the emergency call recognition system initiation, the subscriber unit requesting a communication channel from the base station, the base station determines if a communication channel is open, if so provides dial tone, if not a busy indicator of some sort is provided. In this case the subscriber unit listens for DTMF tones, i.e., emergency number dialed by user (col. 8, lines 5-27). Hence, the emulation of

normal call set-up is in response to detection that communication resources are unavailable to establish the call, i.e., "busy" or "try later" indicator.

Paper No. 20050219, page 2. However, *Uhlik et al* actually discloses only one embodiment emulating <u>normal</u> call set-up procedures (e.g., generating a dial tone that is terminated upon dialing by the users, generating DTMF tones, etc.), and in that embodiment occurs immediately upon the off-hook condition, regardless of whether communication resources are available or not:

> The emergency call recognition system is initiated as soon as an off-hook state is determined at the subscriber unit. The emergency call recognition system does not require the presence of a dial tone. Some implementations may include locally generating (i.e., "faking") a dial tone, while others may include, upon an off hook condition being obtained, opening a non-audio wireless channel to convey dial-tone status from the switch. Alternatively, upon off-hook, after the subscriber unit fails to obtain a channel, a special "dialing in progress" tone (which might simply be silence) is provided to the telephone device during the dialing.

Uhlik et al, column 5, lines 57–67. The portion of *Uhlik et al* cited in the above-quoted language does not teach <u>emulating normal call set-up</u> when communication resources are determined not to be available, but instead teaches generating a "fast busy" signal (which is NOT part of a call <u>set-up</u> process) but listening for dialed DTMF tones nonetheless (i.e., to allow an emergency call to be dialed regardless of the unavailability of call resources):

> Referring to FIG. 2, the procedure for one embodiment of the present invention where channel allocation is made from existing utilized channel and where emergency call sequence recognition occurs in the subscriber unit is illustrated. The telephone device goes off-hook 200. The subscriber unit requests a communication channel 202 from the base station. At this point, a dial tone is not present. The base station determines if there is an open communication channel which can be assigned to the telephone device 204. If there is a communication channel available, the communication channel is assigned to the caller 206. The switch then provides a dial tone to the caller 208. The caller now dials the number 209 and the call proceeds as a normal call 210.

If there are no communication channels available, then the telephone device is provided with an indicator that a channel is not available, i.e., a "try-later" signal such as a "fast busy" signal, and the subscriber unit begins to listen for DTMF tones 212 generated by the user dialing the emergency number. Once a DTMF tone is detected by the DSP, the "fast busy" signal is terminated 214. The DTMF tones are then converted to digital signals in a sequence and sent to the DSP 216. An emergency call recognition program then compares the digital signals, digit by digit, to at least one predefined emergency telephone number 218. If any one digit of the sequence of digital signals fails to match the predefined stored emergency telephone number 220 when that digit is dialed, then the call is disconnected 221.

Uhlik et al, column 8, lines 1–27. Neither embodiment teaches emulating normal call set-up in response to communication resources being determined to be unavailable for a call. Instead, one embodiment teaches emulation of call set-up anytime an off-hook condition occurs, regardless of whether communication resources are available, while the second embodiment teaches allowing dialing attempts over a fast busy signal despite the unavailability of communication resources for the call for the purpose of determining if an emergency call is being dialed.

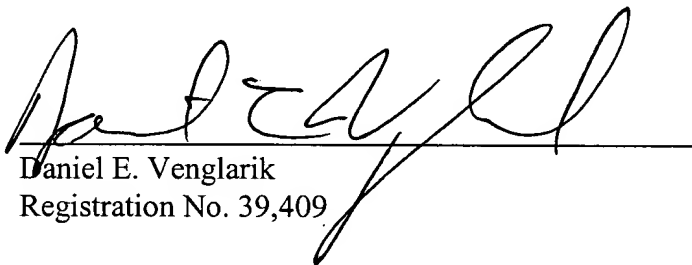Therefore, the rejection of claims 1–20 under 35 U.S.C. § 102 has been overcome.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 6 -23 -05

Daniel E. Venglarik
Registration No. 39,409

P.O. Drawer 800889
Dallas, Texas 75380
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: *dvenglarik@davismunck.com*